

CERTIFICATION OF ENROLLMENT

**ENGROSSED SENATE BILL 5613**

54th Legislature  
1995 Regular Session

Passed by the Senate April 19, 1995  
YEAS 47 NAYS 0

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**President of the Senate**

Passed by the House April 13, 1995  
YEAS 96 NAYS 0

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**Speaker of the  
House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5613** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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ENGROSSED SENATE BILL 5613

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AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington                      54th Legislature                      1995 Regular Session

By Senators Pelz, Franklin, Hargrove, Snyder, Fraser, Bauer, McAuliffe, Smith, Prentice, Heavey and Rinehart

Read first time 01/30/95. Referred to Committee on Labor, Commerce & Trade.

1            AN ACT Relating to the authority of the department of labor and  
2 industries to hold industrial insurance orders in abeyance; and  
3 amending RCW 51.52.060 and 51.32.160.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 51.52.060 and 1986 c 200 s 11 are each amended to read  
6 as follows:

7            ((~~Any~~)) (1)(a) A worker, beneficiary, employer, or other person  
8 aggrieved by an order, decision, or award of the department must,  
9 before he or she appeals to the courts, file with the board and the  
10 director, by mail or personally, within sixty days from the day on  
11 which ((~~such~~)) a copy of ((~~such~~)) the order, decision, or award was  
12 communicated to such person, a notice of appeal to the board((~~÷~~  
13 ~~PROVIDED, That~~)). However, a health services provider or other person  
14 aggrieved by a department order or decision making demand, whether with  
15 or without penalty, for repayment of sums paid to a provider of  
16 medical, dental, vocational, or other health services rendered to an  
17 industrially injured worker must, before he or she appeals to the  
18 courts, file with the board and the director, by mail or personally,  
19 within twenty days from the day on which ((~~such~~)) a copy of ((~~such~~))

1 the order or decision was communicated to the health services provider  
2 upon whom the department order or decision was served, a notice of  
3 appeal to the board.

4 (b) Failure to file a notice of appeal with both the board and the  
5 department shall not be grounds for denying the appeal if the notice of  
6 appeal is filed with either the board or the department.

7 (2) Within ten days of the date on which an appeal has been granted  
8 by the board, the board shall notify the other interested parties  
9 ((thereto)) to the appeal of the receipt ((thereof)) of the appeal and  
10 shall forward a copy of ((said)) the notice of appeal to ((such)) the  
11 other interested parties. Within twenty days of the receipt of such  
12 notice of the board, the worker or the employer may file with the board  
13 a cross-appeal from the order of the department from which the original  
14 appeal was taken( (:—PROVIDED, That nothing contained in this section  
15 shall be deemed to change, alter or modify the practice or procedure of  
16 the department for the payment of awards pending appeal:—AND PROVIDED,  
17 That failure to file notice of appeal with both the board and the  
18 department shall not be ground for denying the appeal if the notice of  
19 appeal is filed with either the board or the department:—AND PROVIDED,  
20 That,)).

21 (3) If within the time limited for filing a notice of appeal to the  
22 board from an order, decision, or award of the department, the  
23 department ((shall)) directs the submission of further evidence or the  
24 investigation of any further fact, the time for filing ((such)) the  
25 notice of appeal shall not commence to run until ((such)) the person  
26 ((shall have)) has been advised in writing of the final decision of the  
27 department in the matter( (:—PROVIDED, FURTHER, That)). In the event  
28 the department ((shall)) directs the submission of further evidence or  
29 the investigation of any further fact, as ((above)) provided in this  
30 section, the department shall render a final order, decision, or award  
31 within ninety days from the date ((such)) further submission of  
32 evidence or investigation of further fact is ordered which time period  
33 may be extended by the department for good cause stated in writing to  
34 all interested parties for an additional ninety days( (:—PROVIDED,  
35 FURTHER, That)).

36 (4) The department, either within the time limited for appeal, or  
37 within thirty days after receiving a notice of appeal, may:

38 (a) Modify, reverse, or change any order, decision, or award( (,—or  
39 may)); or

1 (b)(i) Except as provided in (b)(ii) of this subsection, hold ((any  
2 such)) an order, decision, or award in abeyance for a period of ninety  
3 days which time period may be extended by the department for good cause  
4 stated in writing to all interested parties for an additional ninety  
5 days pending further investigation in light of the allegations of the  
6 notice of appeal(~~, and~~); or

7 (ii) Hold an order, decision, or award issued under RCW 51.32.160  
8 in abeyance for a period not to exceed ninety days from the date of  
9 receipt of an application under RCW 51.32.160. The department may  
10 extend the ninety-day time period for an additional sixty days for good  
11 cause.

12 For purposes of this subsection, good cause includes delay that  
13 results from conduct of the claimant that is subject to sanction under  
14 RCW 51.32.110.

15 The board shall ((thereupon)) deny the appeal upon the issuance of  
16 an order under (b) (i) or (ii) of this subsection holding an earlier  
17 order, decision, or award in abeyance, without prejudice to the  
18 appellant's right to appeal from any subsequent determinative order  
19 issued by the department.

20 This subsection (4)(b) does not apply to applications deemed  
21 granted under RCW 51.32.160.

22 (5) An employer shall have the right to appeal an application  
23 deemed granted under RCW 51.32.160 on the same basis as any other  
24 application adjudicated pursuant to that section.

25 (6) A provision of this section shall not be deemed to change,  
26 alter, or modify the practice or procedure of the department for the  
27 payment of awards pending appeal.

28 **Sec. 2.** RCW 51.32.160 and 1988 c 161 s 11 are each amended to read  
29 as follows:

30 (1)(a) If aggravation, diminution, or termination of disability  
31 takes place, the director may, upon the application of the beneficiary,  
32 made within seven years from the date the first closing order becomes  
33 final, or at any time upon his or her own motion, readjust the rate of  
34 compensation in accordance with the rules in this section provided for  
35 the same, or in a proper case terminate the payment: PROVIDED, That  
36 the director may, upon application of the worker made at any time,  
37 provide proper and necessary medical and surgical services as  
38 authorized under RCW 51.36.010. The department shall promptly mail a

1 copy of the application to the employer at the employer's last known  
2 address as shown by the records of the department.

3 (b) "Closing order" as used in this section means an order based on  
4 factors which include medical recommendation, advice, or examination.

5 (c) Applications for benefits where the claim has been closed  
6 without medical recommendation, advice, or examination are not subject  
7 to the seven year limitation of this section. The preceding sentence  
8 shall not apply to any closing order issued prior to July 1, 1981.  
9 First closing orders issued between July 1, 1981, and July 1, 1985,  
10 shall, for the purposes of this section only, be deemed issued on July  
11 1, 1985. The time limitation of this section shall be ten years in  
12 claims involving loss of vision or function of the eyes.

13 (d) If an order denying an application to reopen filed on or after  
14 July 1, 1988, is not issued within ninety days of receipt of such  
15 application by the self-insured employer or the department, such  
16 application shall be deemed granted. However, for good cause, the  
17 department may extend the time for making the final determination on  
18 the application for an additional sixty days.

19 (2) If a worker receiving a pension for total disability returns to  
20 gainful employment for wages, the director may suspend or terminate the  
21 rate of compensation established for the disability without producing  
22 medical evidence that shows that a diminution of the disability has  
23 occurred.

24 (3) No act done or ordered to be done by the director, or the  
25 department prior to the signing and filing in the matter of a written  
26 order for such readjustment shall be grounds for such readjustment.

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